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13 IN THE UNITED STATES DISTRICT COURT
14 FOR THE NORTHERN DISTRICT OF CALIFORNIA
15

16
17 **CITY AND COUNTY OF SAN FRANCISCO
and COUNTY OF SANTA CLARA,**

18 Plaintiffs,

19 v.

20
21 **U.S. CITIZENSHIP AND IMMIGRATION
SERVICES; DEPARTMENT OF
22 HOMELAND SECURITY; KEVIN
MCALEENAN,** Acting Secretary of
23 Homeland Security; and **KENNETH T.
CUCCINELLI,** in his official capacity as
24 Acting Director of U.S. Citizenship and
Immigration Services,
25

26 Defendants.
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Case No. 3:19-cv-04717-JSC

**PLAINTIFFS' LOCAL RULE 3-12
ADMINISTRATIVE MOTION TO
CONSIDER WHETHER CASES
SHOULD BE RELATED**

Judge: Hon. Jacqueline Scott Corley
Trial Date: None Set.
Action Filed: August 13, 2019

INTRODUCTION

On August 13, 2019, the City and County of San Francisco and the County of Santa Clara filed suit against the U.S. Department of Homeland Security (DHS), Acting DHS Secretary Kevin McAleenan, the U.S. Citizenship and Immigration Services (USCIS), and Acting USCIS Director Kenneth Cuccinelli in the Northern District of California, to challenge newly published regulations regarding section 212(a)(4) of the Immigration and Nationality Act (“Public Charge Rule”). *City and County of San Francisco, et al. v. U.S. Citizenship and Immigration Services, et al.*, Case No. 3:19-cv-04717-JSC (N.D. Cal. Aug. 13, 2019) (“*San Francisco*”). On August 16, 2019, the States of California, Maine, Oregon, the Commonwealth of Pennsylvania, and the District of Columbia (collectively, the States) filed suit against the same Defendants challenging the same Public Charge Rule. *State of California, et al v. U.S. Department of Homeland Security, et al.*, Case No. 3:19-cv-04975-JSC (N.D. Cal. Aug. 16 2019) (“*California*”). A true and correct copy of the Complaint in *California* is attached hereto as **Exhibit A** to the Declaration of William Downer filed with this motion.¹

The Plaintiff States of California, Maine, Oregon, the Commonwealth of Pennsylvania, and the District of Columbia seek to relate their case to the *San Francisco* case, pursuant to Local Rule 3-12, to save judicial time and resources.

ARGUMENT

I. LEGAL STANDARD

Under Rule 3-12, actions are related when:

- (1) The actions concern substantially the same parties, property, transaction, or event; and
- (2) It appears likely that there will be an unduly burdensome duplication of labor and expense or conflicting results if the cases are conducted before different judges.

¹ Additionally, on August 16, 2019, Plaintiffs La Clinica De La Raza, California Primary Care Association, Maternal and Child Health Access, Farmworker Justice, Council on American Islamic Relations-California, African Communities Together, Legal Aid Society of San Mateo County, Central American Resource Center, and Korean Resource Center filed suit against the same Defendants and President Donald J. Trump, challenging the Public Charge Rule on substantially similar legal and factual grounds as those asserted in *California*. See *La Clinica De La Raza, et al. v. Trump, et al.*, Case No. 3:19-cv-04980-JSC (N.D. Cal. Aug. 16, 2019).

II. THE CASES INVOLVE OVERLAPPING PARTIES, FACTUAL ALLEGATIONS, AND CLAIMS.

California and *San Francisco* involve the same defendants and substantially the same factual allegations and claims. Both cases name DHS, USCIS, Acting DHS Secretary Kevin McAleenan, and Acting USCIS Director Kenneth Cuccinelli as Defendants. *Compare California* Complaint ¶¶ 25-28 with *San Francisco* Complaint ¶¶ 16-19. Both cases involve factual allegations related to DHS's new regulations regarding inadmissibility on public charge grounds. *Compare California* Complaint ¶¶ 29-309 with *San Francisco* Complaint ¶¶ 20-78. And both cases assert claims under the Administrative Procedure Act ("APA"). *Compare California* Complaint ¶¶ 310-337 with *San Francisco* Complaint ¶¶ 79-86.

III. RELATION WILL CONSERVE JUDICIAL AND PARTY RESOURCES AND PREVENT UNNECESSARY DUPLICATION OF EFFORTS.

Relating *California* and *San Francisco* will avoid an unduly burdensome duplication of labor and expense for all parties. Given the substantially similar factual allegations and claims, dispositive motions, motions for interim relief, and discovery are likely to overlap significantly. If the cases are related, only one judge and set of chambers staff will be burdened with the cases' substantially overlapping records. Relation will also permit the government to coordinate its defense of substantively similar litigation. Neither Defendants nor their counsel would suffer prejudice from relating the cases.

Relation will also minimize the chance of conflicting results. By considering the cases together, the Court will minimize the chance that different fact-finders will render inconsistent findings of fact. Relation will also ensure that the same judge rules on any identical legal issues that are presented in both cases. Moreover, relation would ease the burden on any member of the public who attempts to become informed about and/or to participate in the litigation. Relation will accordingly ensure that the same judge rules on the comparable legal and factual issues presented in *California* and *San Francisco*.

CONCLUSION

For the foregoing reasons, the States respectfully request that this court relate *California* and *San Francisco*.

Dated: August 21, 2019

Respectfully submitted,

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*Application for pro hac vice status forthcoming or pending.

Filer's Attestation:

Pursuant to Local Rule 5-1 (h)(3), I attest under penalty of perjury that concurrence in the filing
of the document has been obtained from each of the other Signatories.

Dated: August 21, 2019

Respectfully submitted,

/s/William H. Downer

WILLIAM H. DOWNER